

### **REMARKS**

In the Office Action, claims 58-88 were rejected under 35 U.S.C. 103(a) as being unpatentable over Langley (US 6,233,525) in view of Engleson (US 5,781,442). By way of the foregoing amendment, claim 58 and claim 82 have been amended and claims 89-90 have been added. Accordingly, claims 58-90 are pending and are at issue. Of the claims at issue, claim 58 and claim 82 are in independent form. In view of the foregoing amendments and the following remarks, reconsideration of the application is respectfully requested.

In addition, claims 58-88 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application numbers 09/864,888; 09/865,052; 09/864,926; and 09/864,891 in view of Engleson. Without admitting to the propriety of the rejections, and in the interest of advancing prosecution, Applicants attach hereto a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c). Per the Examiner's suggestion, the copending applications have been identified in the Terminal Disclaimer by serial number.

### **The Rejections Under 35 U.S.C. § 103**

Claims 58-88 were rejected under 35 U.S.C. §103 as being unpatentable over Langley (US 6,233,525) in view of Engleson (US 5,781,442). Applicants respectfully traverse these rejections and submit that all claims at issue are allowable over these patents for the reasons set forth below.

#### **Claims 58 and 82 As Amended**

It is well settled that the prior art must teach or suggest each of the claim elements and must additionally provide a suggestion of, or an incentive for, the claimed combination of elements to establish a *prima facie* case of obviousness. See *In re Oetiker*, 24 USPQ. 2d 1443, 1446 (Fed. Cir. 1992); *Ex parte Clapp*, 227 USPQ. 972, 973 (Bd. Pat. App. 1985); *In re Royka*, 490 F.2d 981 (CCPA 1974) and M.P.E.P. § 2143.

Independent claim 58 recites, *inter alia*, "monitoring operation of the blood component collection instrument during operation of the blood component collection instrument." Similarly, independent claim 82 recites, *inter alia*, "reading information from a blood component collection instrument during operation of the blood component collection instrument." Neither

Langley nor Engleson discloses or suggests monitoring operation of or reading information from a blood component collection instrument during operation of the blood component collection instrument.

More specifically, it is respectfully submitted that Engleson simply makes no mention of blood component collection, and Langley actually teaches away from monitoring operation of or reading information from a blood component collection instrument during operation of the blood component collection instrument. For example, see Langley column 14, lines 12-15 which states:

Once the procedure is completed, certain data is transferrable (via the disk 142 or electronically as noted) back to the central input station 148 for further use with regard to the particular donor. (emphasis added)

Because Langley and Engleson fail to disclose or suggest monitoring the operation of or reading information from a blood component collection instrument during operation of the blood component collection instrument as recited by the independent claims at issue, it is respectfully submitted that these claims are in condition for allowance.

#### **Claims 59-81 and 83-90**

All of the other claims at issue depend directly or indirectly from claim 58 or claim 82. Accordingly, all of the other claims at issue are also in condition for allowance for at least the reasons stated above in association with claim 58 and claim 82.

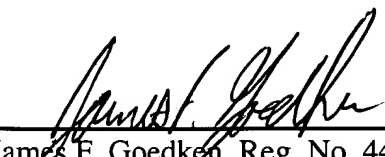
### Conclusion

Reconsideration of the application and allowance thereof are respectfully requested. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,

Dated: April 20, 2004

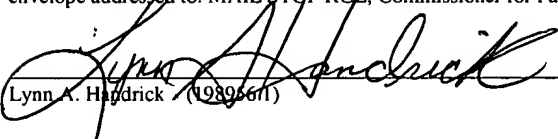
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**CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 20, 2004.

  
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